

Secretary's Order No. 99-A-0025

RE: DRAVO SHIPYARD SITE FINAL PLAN OF REMEDIAL ACTION  
Bio-Retention Swale Area (Operable Unit III)

Date of Issuance: April 22, 1999

I. BACKGROUND

On March 29, 1999, a public hearing was held at the Louis L. Redding City/County Building located at 800 North French Street, Wilmington, Delaware, beginning at 7:10 p.m. The subject of the public hearing was the *Proposed Plan of Remedial Action: Proposed Bio-Retention Swale Area, Dravo Shipyard RDC/Amer Property, DE-1092*, dated February 1999, developed by the Site Investigation and Restoration Branch ("SIRB") of the Department of Natural Resources and Environmental Control ("DNREC"). This hearing was held pursuant to 7 Del. C., Chapter 91, following the procedural guidelines found in 7 Del. C. Chapter 60. SIRB's responses to questions raised by the public at the Public Hearing are incorporated in the Public Hearing transcript. The Hearing Officer prepared a report dated April 15, 1999.

## II. FINDINGS

### A. Findings of Fact

1. A public hearing was held beginning at 7:10 p.m. on Monday March 29, 1999 at the Louis L. Redding City/County Building located at 800 North French Street, Wilmington, Delaware.

2. During the hearing, DNREC responded to public comments on the *Proposed Plan of Remedial Action: Proposed Bio-Retention Swale Area, Dravo Shipyard RDC/Amer Property, DE-1092*, dated February 1999. The public hearing transcript for these proceedings is incorporated herein by reference.

3. The Dravo Shipyard Site in Wilmington, Delaware, requires remediation in order to protect the public health, welfare, and the environment.

4. Remedial Alternative #2 includes excavation of severely contaminated areas and selective use of less contaminated soil.

5. Remedial Alternative #3 would provide substantially the same levels of protectiveness to the public health, welfare, and the environment as Remedial Alternative #2 but at significantly higher cost.

6. Remedial Alternative #1 would not be protective of the public health, welfare, and the environment in that individuals or wildlife would likely be exposed to direct contact with the contaminated soil.

7. A Phase II Assessment of the Dravo Shipyard Site will be performed in order to address groundwater, surface water, or sediment issues, and also

contamination on the southern half of the property, which is not a part of this Bio-Retention Swale Investigation.

8. Proper notice of the hearing was provided as required by 7 Del. C. Chapter 91.

9. A phased approach is being utilized in this instance in order to allow for safe development in the area of the Dravo Shipyard Site.

10. No credible evidence was submitted to support a finding that it was either improper or environmentally harmful to use a phased approach to address the environmental problems at the Dravo Shipyard Site.

11. This is the final remedial action solely with respect to the portion of the soils and subsoils for the Bio-Retention Swale.

B. Conclusions of Law

1. DNREC provided public notice and opportunity for the public to comment on the Proposed Plan of Remedial Action in accordance with 7 Del. C. Chapter 91, and the Regulations Governing Hazardous Substance Cleanup (the “Regulations”).

2. According to the Regulations, the Department is required to select a Remedial Alternative that meets all of the selection criteria for the established remedial action objectives and that is the most cost effective.

3. Remedial Alternative #2 meets all of the remedial action objectives and is the most cost effective of the Alternatives with the exception of Remedial

Alternative #1 which would incur no costs, but would not be protective of public health, welfare, or the environment.

4. Remedial Alternative #2 is the appropriate final plan of remediation with respect to the soils and subsoils on that portion of the Dravo Shipyard Site where the proposed Bio-Retention swale is to be constructed (i.e. *Proposed Plan of Remedial Action: Proposed Bio-Retention Swale Area, Dravo Shipyard RDC/Amer Property, DE-1092*, dated February 1999).

### III. ORDER

In view of the above findings, IT IS HEREBY ORDERED that Remedial Alternative #2 is the Final Plan of Remedial Action for the soils and subsoils on that portion of the Dravo Shipyard Site where the Bio-Retention Swale (i.e. *Proposed Plan of Remedial Action: Proposed Bio-Retention Swale Area, Dravo Shipyard RDC/Amer Property, DE-1092*, dated February 1999) is to be constructed pursuant to 7 Del. C. § 9107(e)(3) and § 8.7(3) of the Regulations.

### IV. REASONS

The record supports selection of Remedial Alternative #2 as the appropriate final remedy according to the Regulations and demonstrates that issuance of a Final Plan and implementation of the appropriate final remedy will further the policies and purposes of 7 Del. C. Chapter 91 in that the action will protect public health, welfare, and the environment.

---

Nicholas A. DiPasquale, Secretary